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UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

SYSCO FOOD SERVICES OF METRO  
NEW YORK, LLC,

Plaintiff,

v.

JEKYLL & HYDE, INC.; and SIXTH  
AVENUE FOOD SERVICES LTD,  
Defendants.

Civil Case No. 08-cv-02958

PLAINTIFF'S STATEMENT PURSUANT  
TO LOCAL RULE 56.1

Pursuant to Local Rule 56.1, plaintiff, Sysco Food Services of Metro New York, LLC  
("Sysco") submits the following Statement of Material Facts:

1. Sysco is a company incorporated in the State of Delaware with an office located at 20 Theodore Conrad Drive, Jersey City, New Jersey. Harvey Dec. at ¶ 3.
2. Sysco is engaged in the business of distributing food and related products (the "Goods") to restaurants, hospitals, schools and other businesses which serve food. Id.

3. Defendants, Jekyll & Hyde, Inc. (“Jekyll”) and Sixth Avenue Foods Services Ltd. (“Sixth Avenue”) (jointly referred to as the “Defendant Entities”) each established open book accounts with Sysco to purchase Goods from Sysco in return for payment. Id. at ¶ 4.

4. Defendant Entities placed a series of orders for the Goods from Sysco during the period from 2005 through 2008 agreeing to remit payment when the invoices came due. Id. at ¶¶ 5 and 13.

5. Sysco issued various invoices to the Defendant Entities during this time period. Id. at ¶¶ 6 and 14; see also Exhibits A-D to Harvey Dec.

6. The invoices identify items purchased, the quantity, the cost, and when each payment is due thereon. Id.

7. Sysco delivered the Goods set forth on the invoices to the Defendant Entities. Harvey Dec. at ¶¶ 7 and 15.

8. Each of the Defendant Entities accepted the delivery of the Goods set forth on the invoices. Id. at ¶¶ 8 and 16.

9. None of the Defendant Entities ever notified Sysco of any rejection of the Goods set forth on the invoices. Id. at ¶¶ 9 and 17.

10. None of the Defendant Entities ever notified Sysco at any time that the Goods did not conform to what the Defendant Entities had ordered. Id. at ¶¶ 10 and 18.

11. None of the Defendant Entities ever notified Sysco of any objection to the price of the Goods set forth on the invoices. Id. at ¶¶ 11 and 19.

12. Jekyll has failed to remit or remitted only partial payment on the invoices issued by Sysco and the amount of \$205,212.64 remains due and owing from Jekyll. Id. at ¶ 12.

13. Sixth Avenue has failed to remit or remitted only partial payment on the invoices issued by Sysco and the amount of \$457,335.66 remains due and owing from Sixth Avenue. Id. at ¶ 20.

14. Despite Sysco's demand, each of the Defendant Entities has failed to remit payment to Sysco on the outstanding invoices. Id. at ¶ 21.

For all of the foregoing reasons and the reasons set forth in the Memorandum of Law submitted herewith, Sysco respectfully requests that judgment be entered against defendants on Counts I and II of the Amended Complaint.

Dated: New York, New York  
February 1, 2010

Respectfully submitted,

By: /s/ Melissa A. Peña  
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-and-

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